

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/895,535	MAGDYCH ET AL.	
	Examiner	Art Unit	
	Benjamin A. Ailes	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 8/2/05.
2.  The allowed claim(s) is/are 1-3,6,8-10,13,15-17,20,22,23 and 25.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Andrew Caldwell*  
**ANDREW CALDWELL**  
**SUPERVISORY PATENT EXAMINER**

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### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Zilka (Reg. No. 41,429) on 12 October 2005.

The application has been amended as follows:

The abstract of the present application has been amended as follows:

**Please delete – SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR IMPROVED EFFICIENCY IN NETWORK ASSESSMENT UTILIZING A PORT STATUS PRE-QUALIFICATION PROCEDURE--.**

Examiner has amended the abstract removing the title information. An amended copy of the abstract is attached.

**ABSTRACT**

A system, method and computer program product are provided for minimizing the duration of a risk-assessment scan. Initially, a plurality of risk-assessment modules are selected each including vulnerability checks associated with a risk-assessment scan. Thereafter, a first set of ports is determined. Such first set of ports is required for communicating with network components subject to the risk-assessment modules associated with the risk-assessment scan. A port scan is subsequently executed on the first set of ports. Based on such port scan, a second set of ports is determined which includes ports unavailable for communicating with the network components subject to the risk-assessment modules associated with the risk-assessment scan. The risk-assessment modules associated with the second set of ports may then be disabled to minimize the duration of the risk-assessment scan.

***Allowable Subject Matter***

2. Claims 1-3, 6, 8-10, 13, 15-17, 20, 22, 23, 25 are allowed.

3. The following is an examiner's statement of reasons for allowance: The prior art of record, specifically for example Fudge (U.S. 6,205,552), discloses methods for identifying shareable devices on a network that should be scanned for vulnerabilities (column 2, lines 31-40). The prior art references do not teach alone or in combination the specific limitations within the independent claims. For example, independent claim 1 discloses the use of risk-assessment modules and the ability to disable risk-assessment modules associated with ports that are deemed to be unavailable for communication. Therefore, the independent claims have allowable subject matter and are deemed allowable over the prior art of record. The dependent claims of the independent claims are also deemed allowable. Applicants arguments filed 02 August 2005 have been considered and are deemed persuasive.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A. Ailes whose telephone number is (571)272-3899. The examiner can normally be reached on M-F 6:30-4, First Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER